

REMARKS

This is responsive to the final Office Action mailed on December 13, 2006. Claims 1-5, 7, 8, 11, 12 and 14 were pending. Claim 1 was amended to clarify that the claimed method is a method of diagnosing cancer and that the cancers are small cell lung cancers. Support for the amendments to the claims is found throughout the specification, such as in the Field of the Invention section; the first two paragraphs of the Summary of the Invention section; page 19, lines 14-19; page 31, lines 19-22; page 64, lines 10-13; and claim 14, the limitation of which is now incorporated in claim 1.

Claims 1 and 11 also have been amended to remove non-elected sequences.

Withdrawn claims 6, 9, 10 and 13 have been canceled. Claim 12 has been canceled in view of the elected subject matter and the amendment of claim 11. Claim 14, the subject matter of which is now incorporated in claim 1, also has been canceled.

No new matter has been added.

Rejections Under 35 U.S.C. § 112, First Paragraph

1. The Examiner maintained the rejection of claims 1-5, 7, 8, 11, 12, and 14 as lacking enablement. The Examiner stated that the claims are not enabled for determining progression or regression of cancer. Applicant respectfully requests reconsideration based on the amended claims.

Applicant respectfully disagrees with the Examiner that determining progression and regression are not enabled. Nevertheless, to expedite prosecution, Applicant has amended the claims to recite that the claimed invention is a method of diagnosing cancer.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 1-5, 7, 8, 11, 12, and 14 under 35 U.S.C. § 112, first paragraph.

2. The Examiner also maintained the rejection of claims 1-5, 7, 8 and 11 as lacking enablement. In this second enablement rejection, the Examiner states that the claims are enabled for determining SCLC, but are not enabled for determining any type of cancer. Applicant respectfully requests reconsideration based on the amended claims.

While Applicant respectfully disagrees with the Examiner that cancers other than SCLC are not enabled, to expedite prosecution Applicant has amended the claims to limit the claimed invention to diagnosing small cell lung cancer (SCLC). The Examiner specifically indicated that claims limited to SCLC are enabled.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 1-5, 7, 8, 11 and 12 under 35 U.S.C. § 112, first paragraph.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

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